



Legal Alert | Projects and Energy

The Energy Regulatory Commission of Thailand (ERC) Sets Out to Promote Low-Carbon Economy with New Regulations on the Procurement of Renewable Energy

The world’s energy shortage crisis immensely affects the fluctuation of prices of natural gas and fuel, as well as the global economy. Many leading countries have encouraged and promoted the development and use of clean and renewable energy for sustainability.

Thailand is well aware of the global trend and the rise in the country’s energy cost, so the Thai government, in collaboration with the relevant public authorities has set out one of the country’s goals to be a low-carbon economy with net-zero carbon emissions.

As a result, the Energy Regulatory Commission of Thailand (ERC) has published the Regulation re: Procurement of Electricity from Renewable Energy under Feed-in Tariff (FiT) for the year 2022 – 2030, effective on 28 September 2022 (the “**Regulation**”), and the Announcements of the Invitation to Purchase the Renewable Energy under the FiT for all promoted renewables, i.e., Biogas (wastewater/solid waste), wind, ground-mounted solar, and ground-mounted solar with battery energy storage system (BESS), effective on 1 October 2022 (the “**Announcements**”).

The key elements of the Regulation to promote the procurement of renewable energy are as follows:

Renewable Energy	Power Producer	Power Purchase Agreement Form	Proposed Electricity to be sold	FiT rate (THB per Unit)
Biogas (wastewater)	<ul style="list-style-type: none"> Small Power 	Non-Firm		THB 2.0724***

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<p>/ solid waste)</p> <p><u>Remark:</u> fossil fuel is not allowed, except only at the commencement stage of the power plant operation.</p>	<p>Producer (SPP)*</p> <ul style="list-style-type: none"> • Very Small Power Producer (VSPP)** 		<p>Not exceeding 90 MW</p>	<p>(for 20 years)</p>
<p>Wind</p>				<p>THB 3.1014*** (for 25 years)</p>
<p>Ground-mounted Solar</p>				<p>THB 2.1679*** (for 25 years)</p>
<p>Ground-mounted Solar with BESS</p>	<ul style="list-style-type: none"> • Small Power Producer (SPP)* 	<p>Partial Firm</p>	<p>More than 10 MW but not exceeding 90 MW</p>	<p>THB 2.8331*** (for 25 years)</p>
<p>* The producer who proposes to sell electricity in an amount of more than 10 MW but not exceeding 90 MW</p> <p>** The producer who proposes to sell electricity in an amount not exceeding 10 MW</p> <p>*** FIT rate mentioned in the Announcements</p>				<p><u>Remark:</u> For projects located in Pattani, Yala, Narathiwat, and some districts in Song Kla provinces, the producer will be entitled to a premium of THB 0.50 per unit during the project period.</p>

The energy generated from the above-mentioned renewable sources will be purchased by (i) the Electricity Generating Authority of Thailand (EGAT), (ii) the Provincial Electricity Authority (PEA), or (iii) the Metropolitan Electricity Authority (MEA).

About Us

Projects and Energy Practice Group

Kudun and Partners has a broad range of experience in all aspects of the energy industry including solar farms, solar rooftops, wind farms, Waste-to-energy (WtE) and natural gas power plants. We leverage our unparalleled business and legal prowess assisting clients from inception to completion of a project, throughout the project's operational lifecycle. Our services include providing advice on FDI regulations, incentives by the BOI, company incorporation, corporate structure, tax structuring, acquisition and joint venture agreements, bid preparation, contract negotiation, and project financing.

Our award-winning work includes representing **B. Grimm Power and Energy China Consortium** in the successful bid and development of the world's largest hydro-floating solar hybrid power project at Sirindhorn dam by the Electricity Authority of Thailand (EGAT) worth over THB 842 million (approximately USD 27 million).

In addition, the Regulation also set out the target energy procurement quotas and the Scheduled Commercial Operation Date (SCOD) below:

Renewable Energy	Proposed electricity to be sold (MW) per year of SCOD							
	2024	2025	2026	2027	2028	2029	2030	Total
Biogas (wastewater/solid waste)	-	-	75	75	75	70	40	335
Wind	-	250	250	250	250	250	250	1,500
Ground-mounted Solar	190	290	258	440	490	310	390	2,368
Ground-mounted Solar with BESS	100	100	100	100	200	200	200	1,000

Are You A Qualified Power Producer?

If you are interested in submitting your proposal to the ERC, you should take the following key qualifications of power producers under the Regulations into consideration:

1. A power producer must be a **juristic person incorporated and registered in Thailand and under Thai law** and must not be a governmental authority, state enterprise, public organization, or an entity in the public sector.
2. If a power producer is a limited company, the **foreign ultimate shareholders must not hold in excess of 49%** of the total shares, and the **number of foreign shareholders must not exceed one half of all of the shareholders.**
3. A power producer must **maintain a shareholding ratio** of the original shareholders, as per the proposal for sale of the electricity, to be **not less than 50%** of all the shares for **three years** after the Commercial Operation Date (COD), unless it is a public limited company listed in the Stock Exchange of Thailand.
4. At least **half of the directors** and all of the **authorized directors** of a power producer must be **Thai nationals.**

5. A power producer's objectives must include the production and distribution of electricity.
6. The **minimum registered capital** must **not** be **less than THB 2,000 per kW** of the amount of electricity proposed to be sold.
7. A power producer must check its electricity connection point and have proof that its electricity system is capable of production of the amount of electricity proposed to be sold.
8. The **project must be newly invested**, and there must **not** be a previous power purchase agreement entered into with the competent authority.
9. A power producer will be require to place a **proposal bond** in the amount of **THB 1,000 per kW** of the amount of electricity proposed to be sold.
10. A power producer will **not** be allowed to change the type of the renewable energy, the location of the project, or the amount of electricity proposed to be sold.
11. A power producer must show its **technical qualifications** in the following areas:
 - Location of the Project and related permits
 - Technology of the project
 - The fuel and renewable energy planed
 - Financial support
 - The appropriateness of the project operation plan.

Remark: The **items nos. 1-2** will **not** be applicable to a power producer who benefits from **GATS (Specific Commitment) (Mode 3)**, as well as the **item no. 4** will **not** be applicable to a power producer who benefits from **GATS (Specific Commitment) (Mode 4)**.

Be Aware Of The Timeframe

According to the Announcements, it is significant to note the key actions and timeframe of the purchase of electricity below:

Actions	Timeframe
1. The relevant announcements (e.g., details, procedures, place and condition for power purchase) are officially published	By 14 October 2022

2. Checking of connecting point for electricity system	3 – 28 October 2022
3. Bidding and submission of proposal for sale of electricity via RE Proposal system for execution and submission to the competent authority	4 – 25 November 2022 (RE Proposal System) Remark: The proposal must be submitted to the authority within three (3) business days after it is confirmed via the RE Proposal System, but no later than 25 November 2022
4. Announcements of the qualified power producer	By 15 March 2023
5. Notification to the qualified power producer to agree and accept the terms and conditions of the power purchase agreement for further execution	By 29 March 2023
6. The power producer executes the power purchase agreement according to the selected SCOD	Within 180 days (if SCOD is during 2024-2025), or within two years (if SCOD is during 2026-2030), from the date in item no. 5
Remark: this timeframe is subject to change pursuant to the authority's discretion and future facts. The amended timeframe will be announced in the official website at www.erc.or.th	

We hope this information is helpful. For more in-depth details, please contact our Projects and Energy Practice team at Kudun and Partners.